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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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## EUREKA DIVISION

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FLORIDALMA ALVAREZ,  
YOURI BEZDENEINYKH.

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No. CV 10-1071 NJV

**SUPPLEMENTAL BRIEFING ORDER  
FOR DEFENDANTS' MOTION TO  
DISMISS (Docket No. 22)**

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v.  
LAKE COUNTY BOARD OF SUPERVISORS,  
et al.

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### Defendants.

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Defendants have moved to dismiss the complaint (Doc. No. 22) and this motion is scheduled to be heard on June 22, 2010. Plaintiffs have filed their opposition and Defendants have filed their reply. (Doc. Nos. 30 & 36)

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In ruling on a motion to dismiss, courts may consider only “the complaint, materials incorporated into the complaint by reference, and matters of which the court may take judicial notice.” *Metzler Inv. GMBH v. Corinthian Colleges, Inc.*, 540 F.3d 1049, 1061 (9th Cir. 2008). The Court orders the following supplemental briefing by June 21, 2010:

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1) Defendants argue that Plaintiffs lack standing because neither currently owns the property that is the subject of this action and the remedies sought can only be pursued by the property owner. Defendants do not cite any legal authority for their argument besides one case for the general legal standard. Defendants are ordered to supplement its briefing to address whether a) a plaintiff's present ownership of real property is required for standing; b) ownership of real property at the time suit was filed is sufficient to establish standing; c) ownership of real property at the time of the alleged injury is sufficient to establish standing; and d) constitutional challenges to an ordinance require ownership of real property.

1           2) Defendants contend that Defendant Richard Coel is immune from liability under  
2 California Government Code § 820.9 and state in their motion that Defendant Coel is the “appointed  
3 Community Development Department Director.” Defs.’ Mot. at 10. This conclusory statement is  
4 insufficient. Defendants must establish that Defendant Coel is a member of a locally appointed  
5 board or commission or a member of a locally appointed or elected advisory body for § 820.9  
6 immunity. Defendants are ordered to supplement its briefing with a) support that Defendant Coel  
7 was appointed Director of the Community Development Department, of which the Court may take  
8 judicial notice; and b) argument regarding whether the Community Development Department is a  
9 board, commission, or advisory body under § 820.9.

10           Defendants’ supplemental briefing is limited to ten (10) pages and must be filed by June 21,  
11 2010. By June 28, 2010, Plaintiffs may, but are not required to, respond to Defendants’  
12 supplemental briefing. Plaintiffs’ responsive briefing is limited to five (5) pages.

14 Dated: June 15, 2010



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NANDOR J. VADAS  
United States Magistrate Judge